

Law Offices  
**HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.**

KENT W. FOSTER  
ROBERT E. FARNAM  
WILLIAM D. FALER  
CHARLES A. HOMER  
GARY L. MEIKLE  
DONALD L. HARRIS  
DALE W. STORER  
MARIE T. TYLER  
FREDERICK J. HAHN, III  
KARL R. DECKER  
THEL W. CASPER\*  
SHAN B. PERRY  
AMELIA A. SHEETS  
DeANNE CASPERSON\*\*  
ROBERT L. HARRIS  
DEBORAH S. O'MALLEY

1000 RIVERWALK DRIVE, SUITE 200  
P.O. BOX 50130  
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620  
FACSIMILE (208) 523-9518  
E-MAIL [KFOSTER@HOLDENLEGAL.COM](mailto:KFOSTER@HOLDENLEGAL.COM)

\*Also Licensed in Utah and Arizona  
\*\*Also Licensed in Missouri & Kansas

KARL  
RECEIVED

DEC 14 2005

Arthur W. Holden  
(1825-1967)  
Robert B. Holden  
(1911-1971)  
Terry L. Crapo  
(1939-1982)  
William S. Holden  
(1907-1988)

Of Counsel  
Fred J. Hahn

December 12, 2005

Karl Dreher, Director  
Idaho Department of Water Resources  
PO Box 83720  
Boise, ID 83720-0098

Re: In The Matter of the Proposed Creation of a Water District in the Mud Lake Area  
Within the Eastern Snake Plain Aquifer and Administrative Basins 31 and 32.

Dear Director Dreher:

We have been asked by Mud Lake Water Users, Inc. to submit this letter to become a part of the hearing record in the above entitled matter. We wish to first express thanks to you and the other IDWR officials who came to Terreton and met with water users in the area on December 5, 2005. The presentation was informative and we appreciated the opportunity to ask questions and your very thoughtful responses. At the outset, we believe it may be important for us to state that we do not concede, and nothing in this letter should be construed as an admission by us that the surface and groundwater sources upon which we rely in Water District 31 are hydraulically connected to the Snake River.

As we understood the current thinking of the Department, the proposal is not to attempt to convert the present water District number 31 into a "subdistrict" of the proposed new District 110. Indeed, if we understood your responses to our questions properly, District 31 will remain an independent water district with responsibilities essentially as they are now and have been historically for distributing the waters of Camas Creek, Mud Lake and tributaries to the holders of the rights to the use of such waters. We applaud that decision and believe it is the most practical approach for the present and the foreseeable future.

We did understand that consideration has been given to placing the approximately 30 groundwater rights now administered by the Watermaster of Water District 31 under the jurisdiction of the new District 110. We wish to express our concern with this consideration and

request that such groundwater rights continue to be administered as they have been historically. These rights appear to include the wells at Buck Springs and at Bybee Springs, which, in the past, flowed under artesian pressure, but now require pumping to produce water under the rights. As you are aware, the pre-season pumping and other use of such wells is integral to the operation of and storage of sufficient water in Mud Lake to provide the needed water for the farms within some 28,000 acres which comprise the service area. The administration of such rights in connection with the administration of the surface water rights is now working well and has worked well for several decades. We think shifting such responsibility to the new District 110 would provide no practical benefit and could result in the unnecessary creation of confusion or worse problems.

One other matter requires our comment. Apparently measurement functions for the rights appurtenant to the Camas National Wildlife Refuge are being carried out, at least in part, by Refuge employees. We object to this practice and request that all such rights be administered by the appropriate State Watermaster, the same as for all other water users. Although the Refuge is a Federal facility, such lands were acquired by the Federal Government from former private ranch land owners whose rights were administered by a State Watermaster. We think the relationships between the federal employees and non-federal water users that have often frayed in recent years could be strengthened if all parties were treated the same with respect to water rights administration. There is no legal reason for separate or different treatment and the practical considerations mitigate in favor of similar and equal administration practices.

Thank you again for your kind consideration of our interests and concerns.

Yours very truly,



Kent W. Foster